

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHINELL CECELIA DERRICKSON,

Defendant-Appellant.

UNPUBLISHED

January 10, 2006

No. 255263

Oakland Circuit Court

LC No. 2003-193578-FH

Before: O’Connell, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of felonious assault, MCL 750.82, and reckless driving, MCL 257.626. Defendant’s convictions stem from an incident where she struck another woman with her car while two undercover police officers watched from their unmarked vehicle. Defendant was sentenced to two concurrent terms of eighteen days and eighteen months’ probation, with credit for eighteen days served. Defendant appeals as of right from her conviction for felonious assault, and we affirm. This case is being decided without oral argument under MCR 7.214(E).

Defendant’s sole argument on appeal is that the evidence presented at trial was insufficient to support her felonious assault conviction. Defendant argues that the trial testimony conflicts so substantially that it casts doubt upon the entire proceeding. Further, defendant argues that there was insufficient evidence for the jury to find an assault beyond a reasonable doubt. We disagree with both assertions.

“[W]hen determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). Under this deferential standard of review, “a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). The prosecutor may indirectly prove a charge’s elements, including intent, from the defendant’s conduct under the circumstances. *People v Lawton*, 196 Mich App 341, 349; 492 NW2d 810 (1992).

Regarding defendant’s argument that inconsistencies undermine the verdict, the alleged inconsistencies are minor and totally irrelevant to the basic elements of felonious assault. For

example, whether the undercover officers' vehicle was moving or at a complete stop was completely irrelevant except to the extent it impeaches the credibility of the witnesses. The jury resolved the issue of credibility in favor of the police officers and the victim and against defendant, and the credibility contest "will not be resolved anew by this Court." *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999).

Regarding the general issue of the evidence's sufficiency to prove the crime's elements, "[t]he elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with intent to injure or place the victim in reasonable apprehension of an immediate battery." *Id.* at 505; see also MCL 750.82. At trial, two eyewitnesses testified that defendant drove her vehicle toward the victim at fifteen or twenty miles an hour and that the vehicle appeared to strike the victim. The victim testified that defendant drove the vehicle toward her, that the vehicle struck her leg, and that she was scared for her life. An automobile is a dangerous weapon when used in this manner. *People v Wardlaw*, 190 Mich App 318, 319-320; 475 NW2d 387 (1991). Furthermore, a jury could infer that defendant intended to injure or frighten the victim with the car from the victim's testimony that defendant yelled, "I got you now, bitch" out her car window after striking her. From this testimony, a rational trier of fact could find beyond a reasonable doubt that defendant committed a felonious assault.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot